

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

10 NANCY M. OBA, et al.,

Plaintiffs,

V.

13 STEVE LARSEN, et al.,

Defendants.

Case No. 1:21-cv-00487-DAD-EPG

ORDER DIRECTING CLERK OF COURT TO
CLOSE CASE IN LIGHT OF PLAINTIFF'S
VOLUNTARY NOTICE OF DISMISSAL

(ECF NO. 23)

17 On August 2, 2021, Plaintiffs filed a notice of voluntary dismissal (ECF No. 23), without
18 prejudice, pursuant to Federal Rule of Civil Procedure 41(a)(1)(A)(i), as Defendants have not
19 filed an answer or motion for summary judgment. Although Defendants Wells Fargo Bank, N.A.
20 and Bank of America, N.A., have filed motions to dismiss (ECF Nos. 9, 10), which remain
21 pending, Plaintiffs still have the right to dismiss this case:

Under Rule 41(a)(1), a plaintiff has an absolute right voluntarily to dismiss his action prior to service by the defendant of an answer or a motion for summary judgment. Even if the defendant has filed a motion to dismiss, the plaintiff may terminate his action voluntarily by filing a notice of dismissal under Rule 41(a)(1).

²⁴ *Concha v. London*, 62 F.3d 1493, 1506 (9th Cir. 1995) (internal citation omitted).

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Accordingly, the Clerk of Court is respectfully directed to vacate all pending deadlines and to close the case.

IT IS SO ORDERED.

Dated: August 3, 2021

/s/ *Eric P. Groj*
UNITED STATES MAGISTRATE JUDGE